

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JAMES STILE,)	
)	
Petitioner,)	
)	
v.)	1:11-cr-00185-JAW
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

**ORDER AFFIRMING THE RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE ON 28 U.S.C. § 2255 MOTION**

On April 28, 2017, James Stile filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. *Mot. Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Fed. Custody* (ECF No. 637). On May 1, 2017, the Magistrate Judge ordered the United States to respond to the motion. *Order to Ans.* (ECF No. 640). On July 21, 2017, the United States filed its response. *Mot. for Summ. Dismissal of “Mot. Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sent. By a Person in Fed. Custody”* (ECF No. 648). On August 25, 2017, Mr. Stile filed a reply. *Pet’r’s Reply to Respondent’s Resp. to Pet’r’s Mot. to Vacate, Set Aside or Correct Sent. Pursuant to Title 28 U.S.C. § 2255* (ECF No. 662). On the same day, the Court referred Mr. Stile’s motion to the Magistrate Judge for a recommended decision.

On October 6, 2017, the Magistrate Judge issued a recommended decision in which he recommended that the Court decline to order an evidentiary hearing, deny

Mr. Stile's petition for writ of habeas corpus, and deny a certificate of appealability. *Recommended Decision on 28 U.S.C. § 2255 Mot.* at 22 (ECF No. 669). The Recommended Decision notified Mr. Stile that if he wished to object to the motion, he must do so within fourteen days of being served a copy of the recommended decision. *Id.* The docket indicated that Mr. Stile must file an objection by October 20, 2017.

On October 23, 2017, Mr. Stile moved for an extension of time within which to file an objection to the recommended decision. *Mot. for Extension of Time Within Which to File Obj. to Magistrate's Recommendation and Report Dec.* ECF No. 669 (ECF No. 672). Mr. Stile requested sixty days to file an objection. *Id.* On October 24, 2017, the Court granted Mr. Stile's motion for extension in part and denied it in part. *Order* (ECF No. 673). The Court allowed Mr. Stile an additional thirty, not sixty days to file any objection to the recommended decision, making Mr. Stile's objection due by November 27, 2017. *Id.*

Mr. Stile failed to file an objection to the recommended decision and, tugging on the deadline to make certain that the mailbox rule is complied with, the Court waited until today, December 7, 2017, to see if Mr. Stile was going to file an objection to the recommended decision. As ten days has passed since Mr. Stile was required to place his objection in the prison mail system, the Court concludes that Mr. Stile failed to make a timely objection to the Magistrate Judge's October 6, 2017 recommended decision.

The Court has, nevertheless, performed a de novo review of the entire record and of the Magistrate Judge's recommended decision and the Court affirms the

recommended decision for the reasons set forth in the Magistrate Judge's October 6, 2017 recommended decision. Specifically, the Court agrees with the Magistrate Judge that Mr. Stile failed to demonstrate that an evidentiary hearing is warranted, that Mr. Stile's motion for habeas corpus relief is properly rejected, and that Mr. Stile failed to make a substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2) and therefore any request for a certificate of appealability must be denied.

The Court therefore ORDERS that the Recommended Decision (ECF No. 669) is AFFIRMED and the Court DENIES James Stile's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (ECF No. 637). If James Stile seeks a certificate of appealability, the Court DENIES the certificate.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 7th day of December, 2017